

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 29, 2007

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL V. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, HI 96813

Land Board Members:

SUBJECT: REQUEST FOR APPROVAL TO ENTER INTO A REBURIAL AGREEMENT
WITH JOHN AND DEBORAH MULLINS FOR THE HUMAN SKELETAL
REMAINS REINTERRED ON THEIR PROPERTY AT MALAEKAHANA
AHUPUA'A, KO'OLAULO DISTRICT, ISLAND OF O'AHU AT [TMK (1) 5-
6-001:018]

Submitted for your consideration is a request to enter into a reburial agreement with John and Deborah Mullins to implement the conditions agreed upon by the landowner and accepted by the State Historic Preservation Division.

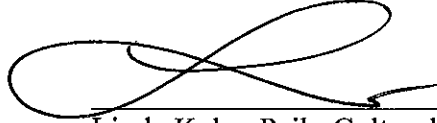
Section 6E-43, and 6E-43.6, Hawaii Revised Statutes, require the State to regulate the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery. In order to provide perpetual protection for the newly established burial site for the skeletal remains, its location will be recorded in the Bureau of Conveyances together with the attached Reburial Agreement. This Reburial Agreement establishes a permanent preservation zone, access rights for lineal and cultural descendants and states that the burial will not be willfully disturbed by the landowner, its successors and assigns.

The office of the Attorney General has conducted a review of the Reburial Agreement and all suggested amendments were incorporated into the attached agreement.

RECOMMENDATION

That the Board authorize Chairperson Thielen to execute the attached Reburial Agreement with John and Deborah Mullins.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Linda Kaleo Paik', written over a horizontal line.

Linda Kaleo Paik, Cultural Specialist
Historic Preservation Division

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to read 'Laura Thielen', written over a horizontal line.

LAURA THIELEN, Chairperson
Board of Land and Natural Resources

[illegible]

REGULAR SYSTEM

Return by Mail () Pickup () To:

REBURIAL AGREEMENT

This Reburial Agreement dated November 20, 2007, by and between JOHN EDWARD MULLINS AND DEBORAH SIMEONSSON MULLINS, whose address is 56-205 Kamehameha Highway, Kahuku, Hawai'i, 96731 ("Landowner") and the STATE OF HAWAII ("State") by its Board of Land and Natural Resources whose address is Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawai'i 96813.

WITNESSETH

WHEREAS, the Landowner owns real property at Malaekahana Ahupua'a, Ko'olaupia District, Island of Oahu, identified by Oahu Tax Map Key No. [TMK: (1) 5-6-001:018] in which property unmarked burial sites containing the skeletal remains of undetermined amount of individuals were identified; and further described in "Exhibit A";

WHEREAS, the State, pursuant to Section 6E-43 and 6E-43.6, Hawai'i Revised Statutes, is responsible for regulating the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery; and

WHEREAS, the parties desire to enter into this Agreement to rebury the human skeletal remains of certain individuals.

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the parties agree as follows:

1. The Landowner agrees to allow the skeletal remains of the ancestral Native Hawaiians to be reburied on the Landowner's property located at 56-205 Kamehameha Highway, Kahuku, Hawai'i 96731.

2. The Landowner, upon recommendation from the Department of Land and Natural Resources agrees to establish a permanent one (1) meter buffer zone completely surrounding the reburial site.

3. The Landowner, upon recommendation from the Department of Land and Natural Resources, agrees to landscape and maintain the area surrounding the reburial site.

4. The Landowner agrees to construct a square, roughly stacked, stone walled enclosure measuring 2.5 meters square and 50 cm high. Within the enclosure a stone lined chamber measuring 122cm in length by 75 cm in width will be constructed for the reinterment of the remains.

5. The Landowner agrees to treat the exact location of reburial sites as confidential information as provided for by section 6E-43.5, Hawai'i Revised Statutes. The Landowner agrees to identify the location of the reburial sites on a map and provide such information to the Department of Land and Natural Resources, Division of Historic Preservation.

6. The Landowner agrees to provide any recognized descendants wishing to visit the reburial sites with a right of access at reasonable times and upon reasonable advance notice, subject to the rules and policies of the Landowner.

7. The Landowner, on behalf of itself and its successors and assigns, covenant and agree not to willfully disturb in any manner, or allow the disturbance of in any manner, the repose of the human skeletal remains reburied at its property at 56-205 Kamehameha Highway, Kahuku, Hawai'i 96731.

8. In the event the Landowner learns that the human skeletal remains, or any part thereof, are unearthed by natural causes or otherwise, the Landowner agrees to immediately notify the Department of Land and Natural Resources. The Landowner agrees not to handle the human skeletal remains in any manner. The Department of Land and Natural Resources, shall take proper action to secure the remains in place.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the Seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Agreement to be executed as of the day, month, and year first above written.

STATE OF HAWAII

By _____
Chairperson, Board of Land and Natural Resources

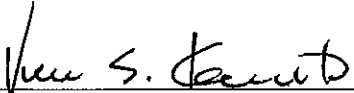
By _____
Member, Board of Land and Natural Resources

LANDOWNER

John and Deborah Mullins
56-205 Kamehameha Highway
Kahuku, HI 96731

By _____

APPROVED AS TO FORM:



Deputy Attorney General

Dated: 12/4/07

STATE OF HAWAI'I

)

) SS.

COUNTY OF

)

On this _____ day of _____, 20____, before me personally appeared _____ to me known to be the person described in and who executed the foregoing instrument and acknowledged that _____ executed the same as _____ free act and deed.

Notary Public, State of Hawai'i

My commission expires: _____

3019070

EXHIBIT "A"

FIRST: All of that certain parcel of land situate at Kahuku, District of Koolauloa, City and County of Honolulu, State of Hawaii, described as LOT 251, area 0.890 acre, more or less, as shown on Map 22, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("said Office") with Land Court Application No. 1095 of the Trustees under the Will and of the Estate of James Campbell, deceased.

SECOND: Together with an undivided 1/22 interest in and to and right-of-way over Lot 271, area 2.321 acres, as shown on said Map 22, and Lot 54, area 0.047 acre, Lot 55, area 0.040 acre, Lot 56, area 0.039 acre, Lot 57, area 0.036 acre, Lot 58, area 0.036 acre, Lot 59, area 0.034 acre, Lot 60, area 0.034 acre, and Lot 61, area 0.029 acre, as shown on Map 9 of said Land Court Application No. 1095.

Being the land(s) described in (1) Transfer Certificate of Title No. 289,086 issued to LYNN MIDORI KANESHIRO, unmarried, as to an undivided 1/3 interest; and (2) Transfer Certificate of Title No. 390,278 issued to CLYDE TAKASHI KANESHIRO and HOLLY RUMI KANESHIRO, husband and wife, as Tenants by the Entirety, as to an undivided 2/3 interest.

TOGETHER with all fixtures and/or personal property (if any) described or itemized in any contract of sale between the parties hereto, which by reference is incorporated herein.

SUBJECT, HOWEVER, to the following:

1. As to First: Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.

2. As to Second (Lots 54 through 61) Only: A perpetual aerial easement in favor of the State of Hawaii, across Lots 54 through 61, as granted by Exchange Deed dated October 24, 1933, recorded in the Bureau of Conveyances of the State of Hawaii in Book 1219, Page 411.

3. As to Second Only:

a. Lots 239, 241 to 243, inclusive, 245 to 257, inclusive, 240-A, 240-B, and 244-A to 244-C, inclusive, have access across Roadway Lot 271 and Roadway Lots 54 through 61, set forth by Land Court Order No. 68817, filed February 16, 1984.

b. Rights of others who own undivided interest(s) in the land described above.

LAND COURT
TERRITORY OF HAWAII
LAND COURT APPLICATION 1095

CONSOLIDATION AND RESUBDIVISION OF LOTS 76 TO 85 AND 87 TO 89

AS SHOWN ON MAP 9
FILED IN THE OFFICE OF THE ASSISTANT REGISTRAR

OF THE LAND COURT
INTO LOTS 239 TO 271

SITUATED IN THE DISTRICT OF KOOLAULOA, OAHU, T. H.

SCALE: 1 in. = 100 ft.

James Williams
Registered Professional Surveyor
Certificate Number 76
Land Court Surveyor
Certificate Number!



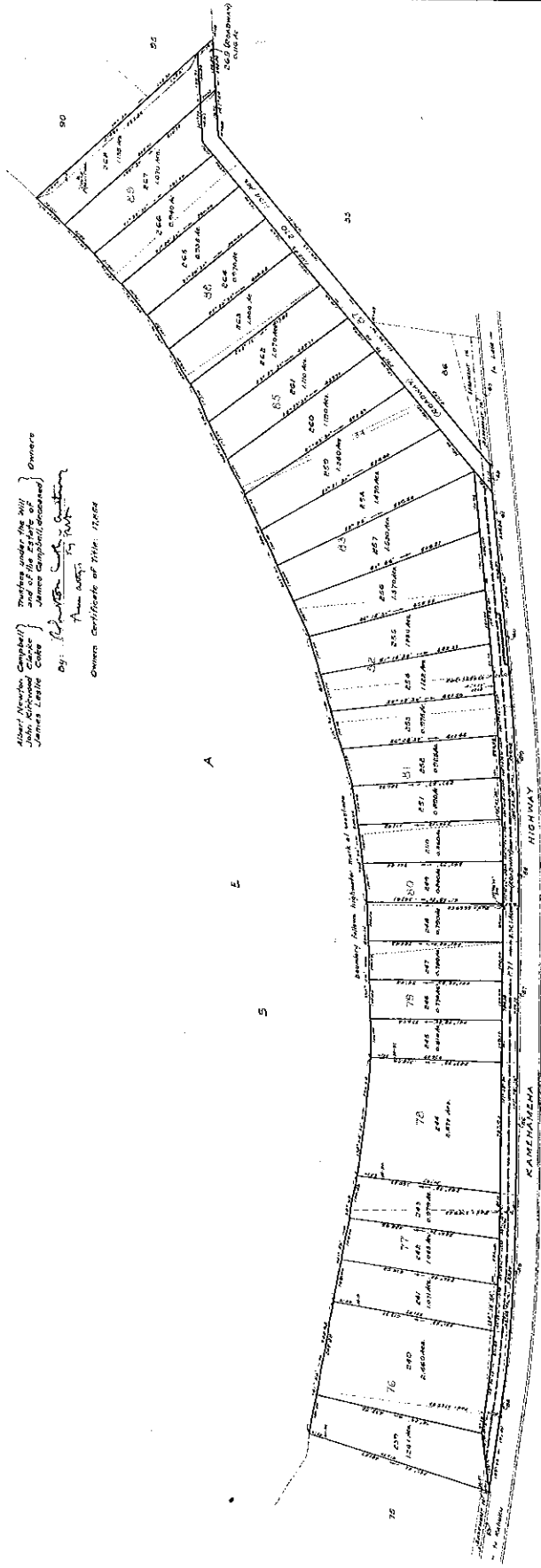
Trustees under the Will
and of the Estate of
James Campbell, deceased

Owners

Albert Newton Campbell }
John Kirkwood Clarke }
James Leslie Coke }

By: Robertson Smith Secretary

Owners Certificate of Title: 17,864



I hereby certify that the above person being a subdivision of Land Court Applications, 1960-1961, has been examined and checked as to form and mathematical correctness and that it has been approved by Order of the Judge of the Hawaiian Circuit Court January 26, 1965.

WALTER MARKS
-Assistant Attorney of Hawaii-

HONOLULU, T.H.
January 26, 1965.

By: Robert E. King
Principal Geodesic Engineer

NOTE:
Points shown thus - A-20 or A-20 are pipes in concrete
marked as indicated.
For rights of way, if any, see Certificate of Title.
Also see petition for subdivision.

Portion of Instrument is affecting Lot 271 as shown
in map has been accepted by Order of the
Land Court dated February 7, 1914.